

A
 REVIEW
 OF THE
 STATE
 OF THE
 BRITISH NATION.

Saturday, May 21. 1709.

IN my last I entred upon the Debate of the Treason-Bill, I gave my Opinion freely as to its being or not being a Contravention of the Treaty of Union, and hope, I made that Point clear; I am now to examine the particular Objections I have met with against it, which I shall do as impartially as possible.

The first I meet with indeed, is rather a general than a particular, *Viz.* That it is putting a Severity upon Scotland, in that the Laws against Treason in England have some Hardships in their Execution, and extend to greater Severities in punishing Treason than those in Scotland.

I confess, had this been in former Times, when our very Government was Treason,

for Tyranny is the worst Treason, I should have been very loth to have said one Word to make the Laws severer than they are; and it is to be noted, that since the Revolution, some of the Cruelties in the antient Laws for Treason were repeal'd, as particularly in the Law 1. 2. William and Mary, Entitled, *Act for Regulating Trials in Cases of Treason*, wherein the Prisoner is allow'd several Privileges, as having a Copy of Indictment, and in some Cases Council assign'd him, and a Copy of the Pannel for the Jury, and that two Witnesses to each Fact shall be necessary to convict the Person of Treason, and the like. But—There seems some material Difference, when we are speaking of a Government Establish'd upon

upon Law, and supported by Liberty, where the Interest of the Sovereign, and the Privileges of the People go hand-in-hand, and where the Government is establish'd upon a Foundation of Law and Right; in this Case, I must acknowledge, it seems strange any Body should struggle for the ease of Traytors: No Laws can be too severe to terrify, and to punish Treason against such a Government.

I might suggest here, that it looks, as if the People, who are most likely to commit the Crime, had struggled hard to make it as easy to themselves as they could, That the Clamour against the Law should be raised upon the Severity of it—If there are any Objections against the Justice of it, against its consistency with Right, with National Liberty, with the Constitution of *Britain*, and the like: More might be said to it——But to blame the Severity of Laws, against those that would subvert our Constitution, overturn our Settlement, destroy our Sovereign, make void our Protestant Succession, and unravel the Revolution; What can be too severe for such Crimes, and in such a Government?

I begin therefore with the Government, against whom this Crime is to be committed; is it not a Government founded upon Right, form'd as the Consequence of National Liberty, and that subsists purely as such a Government, whose very Being consists in, and is kept alive by the Doctrine of National Liberty, and can subsist no longer than the Liberties of the Subjects are upheld?——Some People have suggested *High Church Principles*, and a *Tory Administration*, as Things, that if ever they come upon us, may be fatal to our Liberty, even in this Reign——But do such Men look back, have they not seen that Attempt Impracticable and Destructive of it self, even in the beginning of this Reign?——The Present Government stands upon the Foot of the Revolution, every Act of Government Her Majesty expects, every Step the Present Ministry takes in the Present Administration, every Act of War, or every Act of Peace, every thing done in the State, whether it be Par-

liament, Council, or Convocation, all Recognize the Revolution——All set their Seal, and give a Sanction to this Principle establish'd by the Revolution, That the People of *Britain* have an Original Right to Limit the Succession of the Crown.

While the Government stands upon this Foot, while the Ministry Act upon this Principle they cannot hurt us: When they cease to act thus, they reverse and disown the Revolution: When they disown the Revolution, they declare the QUEEN an Usurper, and are Traytors to Her Majesty's Crown and Dignity.

Thus, upon the Foundation of the Revolution the Liberties of the People are establish'd——By Vertue of, and Consequential to that Liberty, the QUEEN enjoys the Crown——And the Regal Authority is so link'd with the Principles of the Subjects Liberty and Safety, that it is impossible the QUEEN Her self, or any of Her Majesty's Successors, can subvert those Liberties, but that at the same time, they must Disclaim their own Right to Govern, and own themselves Tyrants, Invaders, and Usurpers.

Where is the Sence of these Things gone, *Gentlemen*? You that form'd the Revolution, deposed Tyranny, and erected a Race of Deliverers, and Restorers of Liberty to Reign over us, have you forgot how, and upon what Foot you gave the Crown to Queen *Mary*, and after to Queen *ANNE*, *their Father yet alive*; how you Crown'd your Deliverer King *WILLIAM*, King *James* and his Posterity, having all the Right that Blood, Inheritance and Succession could give?——'Tis plain, the Government we are now Happy under is your Gift, upon the Principle of Revolution Liberty——And when ever the Government, or any by its Permission, shall invade that Liberty, they stab their own Authority, and set their Hands to a Charge of Treason against themselves.

While Things stand thus, I fear no Invasions of a *Tory Administration*, or a *High-Flying Ministry*, if such a Misfortune should ever befall us——The Moment they enter upon the Publick Management, they must commence

commence *WHIGS* — They must renounce the Scandalous Impostures of *Passive Obedience and Non-Resistance*, Recognize the Superiority of our Sovereign Lord *THE LAW*, acknowledge the *Jus Divinum* of the Revolution, and act upon the new Scheme of the Subjects Liberty —

If they do not, they blow themselves up, blast themselves with their own Breath, and must fall into all possible confusion, Self-Enmity, and Self-Destruction.

The Present Government then being Establish'd upon, and twisted with the Pillars of Publick Liberty, and secur'd in its own Nature, that it can never destroy those Liberties, but at the same time it must destroy it self; It seems strange, we should think any Laws too severe, for those that shall attempt to undermine this Foundation, since the Offence is now, not against the Person of the Prince, or the mere Power of the Scepter, but against the very Constitution of the Kingdom.

The Case of Treason in this Age, and in the Ages or Reigns past, is quite alter'd, and therefore when I am to open your Eyes to the one, I must represent the other to you, and in distinguishing this right, a great deal of the Present Case will be clear'd up; Treason was formerly conspiring against the Person of the Sovereign, his Crown and Dignity, and he that did that, deserved Death, because the Sovereign was protected by the Laws — But now that Sovereign is the Protector of the Laws also, and whoever is Guilty of Treason now against the Sovereign, is a Traytor to the Interests, Liberties, Properties, and Constitution of the Nation; formerly these were separated from the Interest of the Sovereign, now they are inseparable; Treason now cannot be levell'd at the Government, but it is levell'd at the same time against the whole Interests of the Governed; the People that Rival the *QUEEN*, and envy Her Majesty, Rival the Nation, and envy us our Liberties, as they are now establish'd; and the Design is equal against the Sovereign, and against the Constitution that made Her so.

And this at the same time takes off the

Argument, which is now grown mighty Popular in the Case of this Bill, (*Vir.*) That tho' we have an Excellent *QUEEN*, whose Principal Care and Concern, is the Interest, Safety, Liberty and Prosperity of Her Subjects, and who makes the Law her Rule; and while we enjoy Her Majesty's Life, we are easie and safe: Yet that Time may come, when a King shall arise who knew not *Joseph*, &c. and it behoves us to provide against that Time — When Oppression may be Rampant again, and to espouse Liberty may be Treason.

To this I answer; By the same Account given above of our Constitution, while our Princes stand upon the Foot of the Revolution, this cannot be; it is the Essential of the Revolution Doctrine, That the Prince must Rule by Law — That the Liberty of the Subject must be preserved — That when it is invaded, you may pull down the Invader, and you must do so, or you will not be faithful to your Country, your Families, or the great Example of those who left the Constitution in your Hands settled by the Revolution, and handed down to you in trust for your Posterity.

Upon the whole, a Government thus Establish'd, thus Founded, thus Fortify'd with Law, and Supported by Liberty: No Severity can be too great to treat these with, who shall appear to be guilty of contriving its Destruction, and therefore this Law of Treason seem to be liable to the least Objection.

But after all, it seems to me, and I believe, if things were exactly compar'd together — That the making the Laws in *Scotland* the same with the Laws in *England* in Cases of Treason, is not encreasing the Severity — That, all Things consider'd, take the Safety of the Subject in the first Method, of finding the Bill by Grand Juries, excepting Peremptorily against the Juries, the clearness of Evidence requir'd, and the like; *It seems to me, I say*, That the Criminal will have rather more Advantage now than he had before; and tho' the Sentence, when Guilt is prov'd, seems harsher, yet the Tryal, the Proof, and every Part of the Proceedings, gives the Prisoner rather